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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:
13 **CINTHIA ANN KNEEMEYER**
14 **Pharmacy Technician License Applicant**
15 Respondent.

Case No. 6188

STATEMENT OF ISSUES

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (“Complainant”) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about November 14, 2016, the Board of Pharmacy (“Board”), Department of
21 Consumer Affairs, received an application for Pharmacy Technician License from Cinthia Ann
22 Kneemeyer (“Respondent”). On or about October 15, 2016, Cinthia Ann Kneemeyer certified
23 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application. The Board denied the application on April 25, 2017.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (“Code”) unless
28 otherwise indicated.

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4. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. . . .

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal. . . .

5. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

(i) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled

1 substances or dangerous drugs, to determine if the conviction is of an offense
2 substantially related to the qualifications, functions, and duties of a licensee under this
3 chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere
4 is deemed to be a conviction within the meaning of this provision. The board may take
5 action when the time for appeal has elapsed, or the judgment of conviction has been
6 affirmed on appeal or when an order granting probation is made suspending the
7 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
8 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
9 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
10 information, or indictment.

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 (Criminal Conviction)

13 6. Respondent's application is subject to denial under Code section 480, subdivision
14 (a)(1), in that on or about February 6, 2017, in the criminal proceeding entitled *People v. Cinthia*
15 *Ann Kneemeyer* (Placer County Super. Ct., Case No. 62-149563), Respondent was convicted by
16 her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (driving
17 under the influence of alcohol), a misdemeanor, and admitted the allegation of a violation of
18 Vehicle Code section 23538, subdivision (b)(2) (having a blood alcohol content of .20% or
19 above). The circumstances are that on or about December 11, 2016, Respondent was involved in
20 a hit and run traffic collision involving Respondent's car and a boulder. Respondent hit the
21 boulder with her car when she drove her car off the road, and Respondent continued to drive after
22 hitting the boulder. Respondent was contacted by a California Highway Patrol Officer shortly
23 after the hit and run. The officer observed that Respondent's speech was slurred to an extent he
24 could not understand what Respondent said. Respondent's blood alcohol content was .28% by
25 blood. The crime is substantially related to the qualifications, functions, and duties of a licensee.

26 **SECOND CAUSE FOR DENIAL OF APPLICATION**

27 (Acts if Committed by a Licentiate)

28 7. Respondent's application is subject to denial under Code section 480, subdivision
(a)(3)(A), in conjunction with Code section 4301, subdivisions (h) and (l), in that Respondent
committed acts that if done by a licentiate would be grounds for suspension or revocation of
license, as follows:

///

1 a. On or about December 11, 2016, Respondent committed unprofessional conduct in
2 that she used an alcoholic beverage to the extent or in a manner as to be dangerous or injurious to
3 herself, to any other person, or to the public, as set forth in paragraph 6 above.

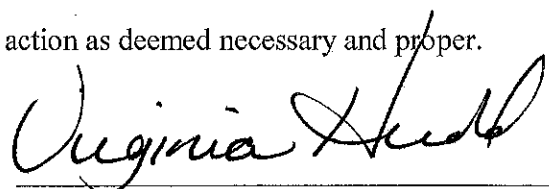
4 b. On or about February 6, 2017, Respondent committed unprofessional conduct in that
5 she was convicted of a violation of Vehicle Code section 23152, subdivision (a), (driving under the
6 influence of alcohol) and admitted an allegation of a violation of Vehicle Code section 23538,
7 subdivision (b)(2), (having a blood alcohol content of .20% or above), as set forth in paragraph 6
8 above.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Pharmacy issue a decision:

- 12 1. Denying the application of Cinthia Ann Kneemeyer for a Pharmacy Technician
13 License;
14 2. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 7/17/17



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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